

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	No. 64390-8-I
Respondent,)	
)	DIVISION ONE
v.)	
)	
DANIEL WAYNE DANCER,)	UNPUBLISHED OPINION
)	
Appellant.)	FILED: August 16, 2010

per curiam. Daniel Dancer appeals the trial court order summarily denying Dancer's CrR 7.8 motion to vacate his 2009 judgment and sentence for assault in the second degree. Dancer contends that under the 2007 amendments to CrR 7.8(c), as applied in State v. Smith, 144 Wn. App. 860, 863-64, 184 P.3d 666 (2008), it was error for the court to deny the motion without a hearing.

The State concedes that it was error for the trial court to deny Dancer's CrR 7.8 motion without an evidentiary hearing. We accept the concession and remand to the trial court to set the time and place for an evidentiary hearing as soon as practicable.

Reversed and remanded.

FOR THE COURT:

Spencer, J.

Leach, a.c.j.

Cox, J.